THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14696 of 2003

Dated: 23.08.2006

Between:

G. Anjaneyulu, S/o G. Anjanappa, R/o Kadapaganipalle (Via), Bukkapatnam, Kothacheruvu Mandal, Ananthapur District.

..... PETITIONER

AND

The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Ananthapur and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.14696 of 2003

Order:

Assailing the award, dated 20.06.2002, passed by the Labour Court, Ananthapur, in I.D. No. 157 of 2000, in so far as not granting continuity of service and reducing his salary by three incremental stages with cumulative effect, the petitioner-workman filed the present writ petition.

The petitioner is working as a Conductor in the 2nd respondent-A.P.S.R.T.C. On 14.03.1999, while he was conducting the bus on route Dharmavaram to Gorantla, a check was exercised, and he was charge sheeted on certain cash and ticket irregularities. The petitioner submitted his explanation to the charges. Thereafter, an enquiry was conducted into the charges. The Enquiry Officer, having conducted the enquiry, held the charges proved. Based on the findings of the enquiry report, a notice calling upon the petitioner to show cause as to why he shall not be removed from service was issued. Upon considering the explanation submitted by the petitioner thereto, vide order dated 20.07.1999, the 2nd respondent-Corporation ordered his removal. Against the order of removal, the petitioner preferred appeal and review petition, which were rejected by orders dated 30.09.1999 and 10.04.2000 respectively. Thereafter, the petitioner raised an industrial dispute in I.D. No. 157 of 2000 and the Labour Court, vide the award impugned in the writ petition, set aside the order of removal and directed the 2nd respondent-Corporation to issue fresh appointment to the petitioner by reducing his salary to three incremental stages with cumulative effect. Assailing the award of the Labour Court, in so far as not granting continuity of service and reducing his salary by three incremental stages with cumulative effect, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-APSRTC.

The learned counsel for the petitioner submitted that when the Labour Court came to a conclusion that the petitioner is entitled for reinstatement, automatically he is eligible for the continuity of service and that the award of the Labour Court in so far as not granting continuity of service and reducing his salary by three incremental stages with cumulative effect is disproportionate to the proved misconduct. He, thus, prayed to set aside the award passed by the Labour Court in so far as not granting continuity of service and reducing the salary of the petitioner by three incremental stages with cumulative effect and allow the writ petition.

Learned Standing Counsel for the 2nd respondent-Corporation contended that the punishment imposed against the petitioner is not disproportionate to the proved misconduct. Given the misconduct, alleged against the petitioner, which stood proved, the petitioner has to be dismissed from service, but the disciplinary authority has imposed a lesser punishment of removal from service, and the Labour Court, on re-appreciation of the entire material on record and holding that the punishment of removal of the petitioner from service is not in proportion to the charges proved, and to give one more opportunity to the petitioner for correcting himself, by taking a lenient view, modified the punishment and directed the 2nd respondent-Corporation to reinstate the petitioner into service as fresh Conductor by reducing his salary to three incremental stages with cumulative effect, and no interference is called for therewith.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the

evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The petitioner, as can be seen from the award, did not allege any procedural irregularity in the conduct of the enquiry. The petitioner was charge sheeted on the ground that he, having collected requisite fare from two passengers, who boarded the bus at Dharmavaram, issued the tickets, which are unconnected and unconcerned to either Way Bill No.0122/10799032, dated 14.03.1999 or S.R. No.A5/2715897. In the departmental enquiry, the Enquiry Officer, on consideration of the statements of the Officials, respective passengers and the petitioner held that the charges leveled against the petitioner were proved. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, on re-appreciation of the entire material on record, though found that the charges are proved against the petitioner, while observing that the punishment of removal of the petitioner from service is disproportionate to the charges proved, and to give one more opportunity to the petitioner for correcting himself, by taking a lenient view, ordered reinstatement of the petitioner into service as fresh Conductor by reducing his salary to three incremental stages with cumulative effect. Had the Labour Court held that the charges leveled against the petitioner are not proved, then the petitioner would have been justified in contending that he should be awarded continuity of service, but that is not the case. The Labour Court, having held that the charges leveled against the petitioner are proved, has taken a lenient view and ordered fresh appointment by reducing his salary to three incremental stages with cumulative effect. The award passed by the Labour Court is a discretionary one and such an order cannot be interfered with by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, and more so when the petitioner failed to point out any illegality, infirmity or perversity committed by the Labour Court in denying the reinstatement of the petitioner with continuity of service and directing the Corporation to

appoint him as Conductor afresh in the Corporation by reducing his salary to three incremental stages with cumulative effect, in exercise of its discretionary power.

Further, in **Karnataka Bank Ltd. V. A.L. Mohan Rao**[2], the apex Court held that it is not for the courts to interfere in cases of gross misconduct of the nature with the decision of the disciplinary authority so long as the inquiry has been fair and proper and misconduct proved, and that in such matters, it is for the disciplinary authority to decide what is the fit punishment. In that view of the matter, merely because the order of removal passed by the disciplinary authority, as confirmed by the appellate authority, was set aside by the Labour Court, it does not mean that the petitioner is entitled to continuity of service.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 23.08.2006
Nsr/Bss

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[2] (2006) 1 SCC 63